



22 AUG 2006

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In re Application of :
SCHADT *et al* :
U.S. Application No.: 10/540,405 :
PCT No.: PCT/US2003/041613 :
Int. Filing Date: 24 December 2003 :
Priority Date: 27 December 2002 :
Attorney's Docket No.: 9301-210-999 :
For: COMPUTER SYSTEMS AND :
METHODS FOR ASSOCIATING :
GENES WITH TRAITS USING CROSS :
SPECIES DATA :

DECISION

This is a decision on the request to add an inventor in the above-captioned application pursuant to 37 CFR 1.497(d) filed 30 June 2006.

BACKGROUND

On 03 January 2006, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, an oath or declaration in compliance with 37 CFR 1.497(a) and (b) was required. Applicants were given two months to respond with extensions of time available.

On 30 June 2006, applicants filed the subject petition which was accompanied by, *inter alia*, a four-month extension and fee; an executed declaration; the processing fee; a copy of an assignment; a "Statement of John Lamb Under 37 CFR § 1.497(d)(1)"; a "Consent of Assignee Under 37 CFR §1.497(d)(3) and Statement Under 37 CFR 3.73(b)."

DISCUSSION

Applicants request to add John Lamb as an inventor in the above-captioned application. 37 CFR 1.497(d) applies when the inventorship in a national stage application filed under 35 U.S.C. 371 differs from that set forth in the international application (see 37 CFR 1.48(f)(1)). 37 CFR 1.497(d) states, in part:

(d) If the oath or declaration filed pursuant to 35 U.S.C. 371(c)(4) and this section names an inventive entity different from the inventive entity set forth in the international application, the oath or declaration must be accompanied by:

- (1) A statement from each person being added as an inventor that any error in inventorship in the international application occurred without deceptive intention on his or her part;
- (2) The processing fee set forth in § 1.17(I); and
- (3) If an assignment has been executed by any of the original named inventors, the written consent of the assignees.

Here, applicants filed a statement by John Lamb who requests to be added as an inventor in the above-captioned application. Mr. Lamb states that the "error in inventorship in the PCT application occurred without deceptive intention on my part." The processing fee of \$130.00 has been paid.

Applicants also submitted a document titled "Consent of Assignee Under 37 CFR 1.497(d)" consenting to the change of inventorship in the above-identified application. This document was signed by Edward M. Yoshida, as Managing Counsel.

The Consent of Assignee is not accepted for the following reason.

MPEP § 324 states that: "[a] person having a title (manager, director, administrator, general counsel) that does not clearly set forth that person as an officer of the assignee is not presumed to be an officer of the assignee or to have authority to sign the statement on behalf of the assignee. Here, the consent of assignee was signed by Mr. Yoshida as Managing Counsel of Rosetta Inpharmatics LLC. This position is not presumed to have authority to sign the statement on behalf of the assignee. In addition, the submission does not set forth that Mr. Yoshida is authorized to act on behalf of the assignee.

Therefore, all the requirements of 37 CFR 1.497(d) are not yet complete.

CONCLUSION

For the reason discussed above, applicants' request under 37 CFR 1.497(d) is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time may be obtained under 37 CFR 1.136(a).

Any further correspondence with respect to this matter deposited with the United

States Postal Service should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

A handwritten signature in black ink, appearing to read "James Thomson". The signature is written in a cursive, flowing style.

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